

SENATE BILL REPORT

HB 1089

As of April 3, 2009

Title: An act relating to harmonizing excise tax statutes with the streamlined sales and use tax agreement.

Brief Description: Harmonizing excise tax statutes with the streamlined sales and use tax agreement.

Sponsors: Representatives Hunter and Condotta; by request of Department of Revenue.

Brief History: Passed House: 2/20/09, 94-0.

Committee Activity: Ways & Means: 4/02/09.

SENATE COMMITTEE ON WAYS & MEANS

Staff: Dean Carlson (786-7305)

Background: The Streamlined Sales and Use Tax Agreement (SSUTA) is a multi-state effort to simplify the system by which state and local sales and use taxes are administered. The agreement provides uniform definitions, administrative procedures, and technology standards for member states. Washington became a member state of the SSUTA effective July 1, 2008, with the implementation of Substitute Senate Bill 5089 which passed during the 2007 legislative session.

As part of the SSUTA legislation, Washington adopted the SSUTA's uniform general sourcing rules effective July 1, 2008. This required retail sales to be sourced to the location where the buyer receives the goods purchased. A portion of these rules dealt with how to source sales of direct mail, in which large volumes of mail are delivered to many addressees. Sellers of direct mail would be required to collect and remit local sales tax on these transactions based on the individual mailbox destinations of the direct mail if the seller is given jurisdictional information about the destinations that the seller could use for tax reporting purposes.

The SSUTA Governing Board has passed an amendment to the agreement by which states may elect to source intrastate direct mail transactions based on the seller's location, as Washington did before July 1, 2008.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The SSUTA's sourcing rules also govern the sourcing of ancillary services, which are services associated with or incidental to the provision of telecommunications services. Recently, the Compliance Review and Interpretations Committee of the SSUTA's Governing Board notified the Department of Revenue (DOR) that it could not determine how this state sources ancillary services.

Summary of Bill: The sale of direct mail that is delivered or distributed from a location within this state to another location within this state is sourced, for sales tax purposes, to the address of the seller from which the direct mail was sent.

The bill also clarifies that telecommunication ancillary services are sourced to the customer's place of primary use of the telecommunication services.

The 50 percent penalty for misuse of a resale certificate is extended to also apply to the misuse of the uniform Streamlined Sales Tax exemption certificate when it is used to claim a purchase for resale exemption.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: DOR is in support of the bill. Beginning January 1, 2010, we have to define digital books, movies, and video. The bill does not change the taxability of these items and maintains the current tax base. If these were not taxed, it would result in a loss of \$28 million in 2010. The retail association is in support of the bill. We would like a safe harbor provision put in the House version of the bill. The Association of Washington Business would like the same safe harbor provision. We would also like to deal with the local business licensing issue that was in an earlier bill. We would like to see more business exemptions in the bill as well as clarifying amnesty.

OTHER: We are concerned about the striking amendment which resembles HB 2320. This could be fixed with many of the provisions in HB 2075.

Persons Testifying: PRO: Drew Shirk, DOR; Mark Johnson, Washington Retail Association; Amber Carter, AWB.

OTHER: Lew McMurrin, Washington Technology Industry Association.